IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5729 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMSINGHBHAI K JADAV

Versus

STATE OF GUJARAT

Appearance:

MR NAVIN PAHWA with MR PM THAKKAR for Petitioner

MS NANDINI JOSHI, AGP for Respondents No. 1-3

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision:16-18/10/2001

ORAL JUDGEMENT

1. Ramsinghbhai Kalusinhbhai Jadav, petitioner has filed this petition challenging the order dated 9th March, 1984, passed by the Commissioner of Police, Ahmedabad City, Ahmedabad, whereby petitioner has been reverted to the substantive rank of Head Constables Grade I with effect from 9.3.1984.

2. It is a case of the petitioner that petitioner was employed on 16.9.1947 as Constable in the service of the respondent-Commissioner of Police, Ahmedabad City.

The petitioner was thereafter promoted to the post of Head Constable on 1.12.1961. The petitioner was further promoted to the post of First Grade Head Constable on 18.4.1972.

2.1 Thereafter the petitioner came to be promoted to the post of Police Sub-Inspector on 1.10.1981. The petitioner has worked continuously on the said post for the period of three years. It appears that the respondent has passed the order dated 9.3.1984 which reads as follows:

"The following Unqualified Head Constables, who were promoted as a local and temporary arrangement and until further orders, to work as Police Sub Inspectors, due to non-availability of regular Sub-Inspectors, are reverted to their substantive rank of Head Constables Grade I with effect from 9.3.1984 afternoon, for want of vacancies.

Sr.No.	Name	Present Position
1.	Shri R.M.Rawal	Special Branch
2.	Shri R.D.Chauhan	Special Branch
3.	Shri D.V.Raol	Vatwa Police Station
4.	Shri S.M.Jhala	Special Branch
5.	Shri M.M.Chauhan	Vatwa Police Station
6.	Shri C.P.Barot	Control Room
7.	Shri R.K.Jadav	Astodia Police Station
8.	Shri J.R.Rawal	Dariapur Police Station
9.	Shri A.M.Raol	Kalupur Police Station
10.	Shri D.M.Pandya	Special Branch (Com.Cell)."

2.2 It has been contended by the petitioner that there are some persons who are similarly situated, who are juniors to petitioner are retained whereas the petitioner who is senior to all of them is sought to be reverted. The petitioner has also made representation to the respondents in pursuance of the statement made by the petitioner before this Court to consider the case of the petitioner to retire him as Police Sub-Inspector.

3. Shri P.M.Thakkar, learned Senior Counsel alongwith Mr.Navin Pahwa, learned advocate appeared on behalf of the petitioner. Learned counsel for the petitioner has raised certain contentions which has been raised in the petition.

4. On behalf of the respondents Ms.Nandini Joshi, learned AGP appears. She has filed affidavit of

K.D.Patadia, Additional Commissioner of Police (Administration), Ahmedabad City. In the said affidavit it has been stated that the petitioners are unqualified Unarmed Head Constables officiating as Police Sub Inspectors were reverted to the rank of Head Constable Grade I from 9.3.1984 AOH for want of vacancies. It has been stated that the petitioner had not passed the Sub-Inspectors course of the Police Training College as required by Rule 2(ii) of the Police Sub-Inspector (Unarmed) Recruitment Rules, 1980 nor the departmental qualifying examination for Head Constables for promotion to the rank of Police Sub-Inspectors prescribed under Rule 165 of the Gujarat Police Manual 1975 Vol.I and as such the petitioner had no right to claim appointment as a Sub-Inspector.

4.1 It was further stated that the petitioner did not possess any qualification for getting promotion to the rank of PSI, he was temporarily promoted to the rank of PSI as a temporary and a local arrangement purely as a stop gap measure and for want of vacancy he was reverted from 9.3.1984 in this behalf.

4.2 Learned advocate for the respondents has relied upon the order of the Division Bench of this Court in Special Civil Application No.1739 of 1984 with Special Civil Application No.1564 of 1984. In that case the Division Bench of this Court (Coram: N.H.Bhatt & D.H.Shukla, JJ.) on 20.9.1984 had passed the following order:

> "Mr.Oza withdraw both these petitions after we had heard these matters for good length of time and after we had dictated the judgment rejecting the petitions, but before it was typed and signed. Mr.Oza says that the petitioners want to make a representation to the appropriate authority and for that purpose, he has instructions to withdraw the petitions. If the representations are made, the same may be considered sympathetically for whatever they are worth. The representations will be considered, we hope, within reasonable time of about a month or so from the receipt of the representations by the authorities concerned. Rule is discharged with no order as to costs. Interim relief stands vacated."

5. In view of the same, in my view, there is no substance in the petition. The petition is dismissed with no order as to costs. Rule is discharged.

(K.M. Mehta, J.)

syed/